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Date 12/3/08 (signed) [Signature]

EXAMINER - Wright

GROUP - 1797

SN - 10/769,017

PRELIMINARY AMENDMENT

FILED - 1/30/04

BY - Tanaami

Sirs:

#### REMARKS

Claims 33, and 35-38 are in the application. Claims 1-32 were previously cancelled. Claim 34 has now been cancelled. Claims 33 35 and 38 have been amended to more clearly define the invention and to avoid any Sec 112 problems.

The claims appear on Appendix 1 and 2.

Claims 33-38 were rejected by the Examiner under Sec. 102 as being anticipated by Ogino USP5,422,712. Applicant respectfully traverses the Examiner's rejection as being without adequate basis.

Ogino shows the sheath flow detection system in such a flow cytometer, these detector essentially detect the ne dimensional spectroscopic signals or information.

These are ONE DIMENSIONAL line signals which depend on the passage of time, so the spectroscopic signals are also one dimensional line signals, also.

In contrast, applicant's system shows the TWO DIMENSIONAL SPECTROSCOPIC SIGNALS OF BIOLOGICAL samples provided as spots